



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/704,904	11/02/2000	Richard Hayton	CTX-054(1545/98)	4614

7590 10/19/2004

John D. Lanza, Esq.
LAHIVE & COCKFIELD, LLP
28 State Steet
24th Floor
Boston, MA 02109-1784

EXAMINER

POLLACK, MELVIN H

ART UNIT	PAPER NUMBER
----------	--------------

2145

DATE MAILED: 10/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/704,904

Applicant(s)

HAYTON ET AL.

Examiner

Melvin H Pollack

Art Unit

2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-9,12,13,15-19 and 22-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-9,12,13,15-19 and 22-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 April 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 8/16/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: see attached office action.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1, 3-9, 12, 13, 15-19 and 22-29 have been considered but are moot in view of the new ground(s) of rejection.
2. In the response to the last office action, the applicant changed the scope of the claims by adding several new limitations to all independent claims and by adding clarifying language to many dependent claims. As a result, a final amendment is necessitated even if the examiner provides a new art rejection. The examiner acknowledges that no new matter has been added by this amendment.
3. Regarding the objection to the abstract, the examiner accepts the new abstract. This objection is withdrawn.
4. Regarding the various 101 and 112 rejections, all of the related claims have been cancelled or amended to clarify the issues. Therefore, all such rejections have been withdrawn.
5. Regarding the issue of the original 102 and 103 rejections, the applicant has amended the claims to get around the original reference. Specifically, the applicant has added that the page comprises a plurality of dynamic portions, and that an identifier is used to determine which sections have been modified and need to be replaced. The examiner has added Lafer to the previously-cited Hawes system in order to reject the new limitations.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

Art Unit: 2141

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 3-5, 9, 12, 13, 15-17 and 22-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hawes (6,094,662) in view of Lafer et al. (6,192,382).

8. For claim 1, Hawes teaches a method (see abstract) for partial page regeneration (col. 1, lines 5-15) of a transmitted page (col. 2, lines 55-67) by a server (Fig. 1, #130), said method comprising:

- a. Receiving page generation code that generates a page (col. 1, lines 40-56; col. 2, lines 20-30), the page comprising a plurality of changeable portions (Fig. 3; the various status indicators of monitored items indicates that such sections are changeable by some mechanism);
- b. Transmitting said page (col. 4, lines 45-47) to a client (Fig. 1, #110) for display (Fig. 1, #140);
- c. Associating a portion of said received page generation code with an executable code fragment (col. 2, lines 55-61; col. 4, line 50 – col. 5, line 13; see below);
- d. Executing said associated executable code fragment of said code (col. 5, line 60 – col. 6, line 15 and col. 7, lines 5-15) to produce a modified version of one of the plurality of portions of said transmitted page (col. 5, lines 14-25 show that the pages are updated); and
- e. Transmitting to the client the modified version of one of the plurality of dynamic portions and an identifier specifying one of the plurality of dynamic portions of the transmitted page to be replaced by the modified versions of one of the dynamic portions (Fig. 5, S2600 – S2800; see below).

Art Unit: 2141

9. Hawes teaches executable code fragments, but does not expressly disclose that these fragments constitute dynamic portions. Lafer teaches a method (abstract) of updating pages with changed and/or personal data (col. 1, line 1 – col. 2, line 40) in which parts of the page are dynamic portions (col. 3, lines 20-45; HTML fragments). At the time the invention was made, one of ordinary skill in the art would have added Lafer's dynamic portions to Hawes in order to allow for improved customized and personal pages (col. 1, lines 25-41).

10. Hawes teaches a method of updating sections that represent updated status features, as shown above. Further, the applicant acknowledges the use of time stamps to determine replacement issues, and that only non-cached portions are downloaded (Applicant's remarks, Page 8, lines 30-33). In other words, Hawes teaches a method of identification to determine which portions, if any, should be replaced by updated and modified versions. Hawes does not expressly disclose that the identification uses an identifier that specifies which sections to be replaced or that such identifiers are transmitted to the client, although one of ordinary skill in the art could develop time stamps and/or cache flags that would fulfill these purposes. Hawes also teaches that such modifiers may be added later (col. 5, lines 3-8). Lafer teaches an identification system in further detail that includes the identifiers (tags) that operate as above (col. 4, lines 55-61). At the time the invention was made, one of ordinary skill in the art would have used the Lafer identification system to improve the efficiency of a Hawes page-cache replacement system (col. 1, lines 25-41).

11. For claim 3, Hawes teaches the step of selectively executing the associated code fragment (Fig. 5, S2500). The page is refreshed only if changes are made, and only to the flagged and selected portions (selective execution).

Art Unit: 2141

12. For claim 4, Hawes teaches that the step of selectively executing further comprises intercepting communication between said associated code fragment (Fig. 4, S1500) and other parts of said page generation code (Fig. 6, S3200) to enable execution of less than said entire page generation code (Fig. 6, S3600; col. 5, lines 25-45). The page is refreshed only due to coordination between the non-cacheable portions flag and a timer to determine when to check the server's page status.

13. For claim 5, Hawes teaches that the step of selectively executing further comprises adding additional code (Fig. 3, 213) to operate with said page generation code to enable selective execution of said associated code fragment (col. 5, lines 45-57). The page is refreshed due to a code to form a refresh button on the page, i.e. in Java, that checks the status of the non-cacheable data upon a user press. Added code to insert a timer would also teach this limitation.

14. For claim 9, Hawes teaches that said page is formatted as a Hypertext Markup Language (HTML) page (col. 1, lines 40-45).

15. Claim 12 is drawn to a hardware system that implements the method drawn in claim 1, with added limitations taught by Hawes including that there exists a client (Fig. 1, #110), a client transceiver (Fig. 1, #180), a server transceiver (Fig. 1, #120), and a partial page regenerator (Fig. 1, #130). It is well known in the art that a system implementation is functionally equivalent to the underlying method. Therefore, since claim 1 is rejected, claim 12 is also rejected for the reasons above. A teaching that shows the functional equivalence will be included upon request.

16. As for claim 13, Hawes teaches an external page code source (Fig. 1, #212).

17. Claims 15-17 are drawn to a hardware system that implements the method drawn in claims 3-5. It is well known in the art that a system implementation is functionally equivalent to

Art Unit: 2141

the underlying method. Therefore, since claims 3-5 are rejected, claims 15-17 are also rejected for the reasons above. A teaching that shows the functional equivalence will be included upon request.

18. Claim 22 is drawn to a hardware system that implements the method drawn in claims 1 and 12. It is well known in the art that a system implementation is functionally equivalent to the underlying method. Therefore, since claims 1 and 12 are rejected, claim 22 is also rejected for the reasons above.

19. Claim 23 is drawn to the limitations in claim 13. Therefore, since claim 13 is rejected, claim 23 is also rejected for the reasons above.

20. For claim 24, Hawes teaches that said partial page regenerator sends said modified version of one of the plurality of dynamic portions and said identifier to said server transceiver for transmission to said client (Fig. 4, S1400).

21. Claims 25-27 are drawn to a server system that implements the method drawn in claims 3-5. It is well known in the art that a system implementation is functionally equivalent to the underlying method. Therefore, since claims 3-5 are rejected, claims 25-27 are also rejected for the reasons above. A teaching that shows the functional equivalence will be included upon request.

22. Claims 6-8, 18, 19, 28, 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hawes and Lafer as applied to claims 1, 12, 22, 23 above, and further in view of Jois et al. (6,112,242).

Art Unit: 2141

23. For claim 6, Hawes does not expressly disclose the step of associating further comprises executing a code fragment of said page generation code to generate an output, and identifying with an identification tag said generated output of said executed code fragment to identify which portion of said transmitted page is created by said executed code fragment. Hawes does disclose that the system may accommodate any form of tagging to delineate updatable content matter (col. 5, lines 3-7). Jois teaches a method (see abstract) of serving web pages (col. 1, lines 20-40) in which a page is split up (col. 2, lines 40-60) so that one portion may be updated without updating other portions (col. 2, line 64 – col. 3, line 3; col. 5, lines 20-22). Jois also demonstrates the above limitations (col. 5, lines 40-60; col. 6, lines 5-15). At the time the invention was made, one of ordinary skill in the art would have used Jois in a Hawes system in order to provide Hawes with a method of determining non-cacheable data and to provide an improved interactive experience (col. 2, lines 33-36).

24. For claim 7, Hawes does not expressly disclose the step of identifying further comprises inserting said identification tag at the beginning and the ending of said generated output. Jois teaches this method as well (col. 1, lines 40-50; col. 5, lines 50-55). At the time the invention was made, one of ordinary skill in the art would have used Jois in a Hawes system in order to provide Hawes with a method of determining non-cacheable data and to provide an improved interactive experience (col. 2, lines 33-36).

25. For claim 8, Hawes teaches the use of Java (col. 1, lines 47-55), but does not expressly disclose that said code is formatted as a servlet. Jois teaches this method as well (col. 6, lines 63-67). At the time the invention was made, one of ordinary skill in the art would have used Jois in

Art Unit: 2141

a Hawes system in order to provide Hawes with a method of determining non-cacheable data and to provide an improved interactive experience (col. 2, lines 33-36).

26. Claim 18 is drawn to a hardware system that implements the method drawn in claims 6 and 7. It is well known in the art that a system implementation is functionally equivalent to the underlying method. Therefore, since claims 6 and 7 are rejected, claim 18 is also rejected for the reasons above. A teaching that shows the functional equivalence will be included upon request.

27. For claim 19, Hawes does not expressly disclose that said partial page regenerator stores a relationship between said portion of said page and said code fragment of said code that generates said portion. Jois teaches this limitation (Fig. 3, #240). At the time the invention was made, one of ordinary skill in the art would have used Jois in a Hawes system in order to provide Hawes with a method of determining non-cacheable data and to provide an improved interactive experience (col. 2, lines 33-36).

28. Claim 28 is drawn to a hardware system that implements the method drawn in claims 6 and 7. It is well known in the art that a system implementation is functionally equivalent to the underlying method. Therefore, since claims 6 and 7 are rejected, claim 28 is also rejected for the reasons above. A teaching that shows the functional equivalence will be included upon request.

29. Claim 29 is drawn to the limitations in claim 19. Therefore, since claim 19 is rejected, claim 29 is also rejected for the reasons above.

Conclusion

30. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 2141

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melvin H Pollack whose telephone number is (703) 305-4641. The examiner can normally be reached on 8:30-5:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on (703) 305-4003. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

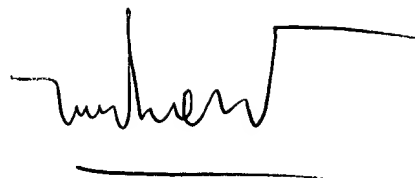
MHP

Application/Control Number: 09/704,904

Page 10

Art Unit: 2141

08 October 2004

A handwritten signature in black ink, appearing to read 'Le Hien Luu', with a horizontal line underneath.

LE HIEN LUU
PRIMARY EXAMINER